

DOCKET NO: 248078US2

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :  
KENJI SHIRAISHI, ET AL. : EXAMINER: PETERSON, C  
SERIAL NO: 10/764,438 :  
FILED: JANUARY 27, 2004 : GROUP ART UNIT: 2622  
FOR: IMAGING APPARATUS AND :  
IMAGING METHOD

PROVISIONAL ELECTION

COMMISSIONER FOR PATENTS  
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the election requirement dated July 30, 2007, Applicants provisionally elect, with traverse, Species A, identified in the outstanding Official Action as corresponding to Figures 4 and 5, for further examination on the merits. Applicants identify Claims 1, 2, 4-6, 8-10, 12, and 13 as readable on the elected species. Applicants reserve the right to file one or more divisional applications directed to the non-elected species.

Furthermore, while the Election Requirement asserts that the application contains claims to patentably distinct species, MPEP § 803 states the following:

If the search and examination of all the claims in an application can be made without serious burden, the Examiner must examine them on the merits, even though they include claims to independent or distinct inventions.

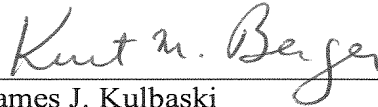
Although the outstanding Official Action does not identify search classifications, it is believed that the claims of the present application would have to be searched in a handful of subclasses. Furthermore, since electronic searching is commonly performed, a search may be

made of a large number of, or theoretically all, subclasses without substantial additional effort. Accordingly, Applicants respectfully traverse the Election Requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the Examiner, whereas it would be a serious burden on Applicants to prosecute and maintain separate applications.

Therefore, it is respectfully requested that the requirement to elect a single species be withdrawn, and that a full examination on the merits of all the pending Claims be conducted.

Respectfully submitted,

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